

**OFFICE OF THE HEARING EXAMINER  
CITY OF RENTON**

**Minutes**

OWNERS: Harold A. Deacy Ole Willey  
407 Whitworth Ave S 409 Whitworth Ave S  
Renton, WA 98055 Renton, WA 98055

APPLICANT: Capital Homes, LLC  
16603 107<sup>th</sup> Place NE  
Bothell, WA 98011

CONTACT: Chris Cirillo  
Capital Homes, LLC  
20314 132<sup>nd</sup> Ave NE  
Woodinville, WA 98072

Whitworth Condominiums  
File No.: LUA 08-083, SA-H, ECF

LOCATION: 407/409 Whitworth Avenue S

SUMMARY OF REQUEST: Applicant requested Site Plan Review and Environmental (SEPA) Review for the construction of a 5-story (58 feet, 5-1/8 inches) mixed-use building.

SUMMARY OF ACTION: Development Services Recommendation: Approve with conditions

DEVELOPMENT SERVICES REPORT: The Development Services Report was received by the Examiner on September 23, 2008

PUBLIC HEARING: After reviewing the Development Services Report, examining available information on file with the application, field checking the property and surrounding area; the Examiner conducted a public hearing on the subject as follows:

**MINUTES**

*The following minutes are a summary of the October 2, 2008 hearing.  
The legal record is recorded on CD.*

The hearing opened on Thursday, October 2, 2008, at 9:00 a.m. in the Council Chambers on the seventh floor of the Renton City Hall. Parties wishing to testify were affirmed by the Examiner.

The following exhibits were entered into the record:

<b><u>Exhibit No. 1:</u></b> Yellow file containing the original application, proof of posting, proof of publication and other documentation pertinent to this request.	<b><u>Exhibit No. 2:</u></b> Vicinity Map
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<b><u>Exhibit No. 3:</u></b> Site Plan	<b><u>Exhibit No. 4:</u></b> Landscape Plan
<b><u>Exhibit No. 5:</u></b> Elevations – west and south	<b><u>Exhibit No. 6:</u></b> Elevations – east and north
<b><u>Exhibit No. 7:</u></b> Zoning Map	<b><u>Exhibit No. 8:</u></b> ERC Mitigation Measures
<b><u>Exhibit No. 9:</u></b> Revised North Elevation	<b><u>Exhibit No. 10:</u></b> Previous East Elevation for 409 Whitworth Project

The hearing opened with a presentation of the staff report by Gerald Wasser, Associate Planner, Development Services, City of Renton, 1055 S Grady Way, Renton, Washington 98055. The project would consist of a 5-story mixed-use building and would be located on the southwest corner of South 4<sup>th</sup> Street and Whitworth Avenue South in the Downtown Core Area of the City of Renton. The completed project would contain 33 multi-family dwelling units; there would be five levels of residential units with one unit at grade, 9 units on the second and third levels, and 7 units on the fourth and fifth levels. The project would also include a net area of 2,290 square feet of general commercial space.

A total of 50 structured parking stalls including 3 accessible parking stalls would be provided. Required parking for the residential units would be 33 parking stalls and 36 are indicated on the plans.

The main pedestrian entrance and entry lobby would be from Whitworth Avenue South. The entrance to the commercial space would be on South 4<sup>th</sup> Street.

The density of the proposed project is 100 units per net acre.

The Environmental Review Committee issued a Determination of Non-Significance – Mitigated with nine mitigation measures. No appeals were filed.

Parks, Transportation and Fire Mitigation Fees were imposed by the ERC. An avigation easement was also required by the ERC.

With the addition of 407 Whitworth, the south façade has been stepped away from the single-family residence to the south and the bulk of the structure reduced through the use of varied materials. Other design changes have been made on the north and east facades to soften the apparent mass of the proposed building. The refuse and recycling area would be located on the west side of the building.

The project conforms with the Comprehensive Plan objectives and policies. Uses in the Urban Center – Downtown should include a mix of uses, including retail, entertainment, restaurant, office and residential. Development should strive for urban density and intensity and should include no or little setbacks, taller structures, mixed uses, structured parking, and amenities within buildings.

The project further complies with existing Land Use Regulations including landscaping and height restrictions. Landscaping is to include planters, street trees and a rooftop terrace common area. There are trees, shrubs and ground covers at the south side of the building.

The scale, height and bulk of the proposed building would be unlike structures in the immediate vicinity. It is anticipated that this project would be the catalyst for other similar redevelopment projects in the immediate area.

The two entrance driveways to the building are 24-feet wide and 30-feet wide. Both driveways take access from the 16-foot wide alley on the westerly property line. Some type of warning devices or other safety equipment at both driveways should be installed.

Hours of construction activity would be from 7:00 am to 8:00 pm Monday through Friday and between 9:00 am and 8:00 pm on Saturday.

Kent Smutny, TSA Architects, 10800 NE 8<sup>th</sup> Street, Bellevue, WA 98004 stated that with the acquisition of 407 Whitworth they were able to shift the building toward the north, which allowed them to keep the south side of the proposed building the same height as the neighbors' house to the south. The north side was redesigned to reflect Whitworth and to maintain consistency with the design of the project.

Eric Hildebrand, 415 Whitworth Avenue S, Renton stated that he is the neighbor directly to the south of this project. He had some concerns regarding his being able to use his garage, it faces north and he has in the past had to cut across the neighbors' property in order to enter and exit his garage. Now, the new designs show a wall where he has been crossing to get into his garage.

Secondly, the fence on the south side is his fence. With a space of only three feet from the fence to the building, he is concerned how the construction will take place in such a small space without doing damage or removing the fence and coming onto their property.

Lastly, they will be relocating in approximately one year. He is very concerned about the property values and that they most likely may decrease. A five-story condo complex with a school across the street, traffic is going to increase and values most likely go down.

Kayren Kittrick, Development Services stated that the alley is dead end and Whitworth is an existing dead-end road. It has been functional to this point. Water and sewer are available in the area, the school is directly across from this development. Whitworth is going to remain quiet because it is a dead end road, the additional parking that the applicant has created should minimize any additional parking on the street.

The Examiner inquired about the access to the garage facing to the north, perhaps the garage door could be relocated to face the alley to provide access for Mr. Hildebrand. He asked the applicant if he had any suggestions to solve this problem.

Chris Cirillo, Capital Homes, LLC, 20314 132<sup>nd</sup> Ave NE, Woodinville, WA 98072 stated that he had not had an opportunity to review the parking situation as yet, but would review the situation as they move forward with the project. On a site visit a few months back, he did not see that there would be an issue with the building being located as shown on the plans, but he will look specifically at the situation and make some measurements.

The **Examiner** called for further testimony regarding this project. There was no one else wishing to speak, and no further comments from staff. The hearing closed at 9:41 am

## **FINDINGS, CONCLUSIONS & RECOMMENDATION**

Having reviewed the record in this matter, the Examiner now makes and enters the following:

### **FINDINGS:**

1. The applicant, Capital Homes LLC, Chris Cirillo, filed a request for a Site Plan approval of mixed-use condominium complex.

2. The yellow file containing the staff report, the State Environmental Policy Act (SEPA) documentation and other pertinent materials was entered into the record as Exhibit #1.
3. The Environmental Review Committee (ERC), the City's responsible official issued a Determination of Non-Significance - Mitigated (DNS-M).
4. The subject proposal was reviewed by all departments with an interest in the matter.
5. The proposal would include 33 residential units as well as 2,290 square feet of commercial space oriented to the north. This is an expanded proposal of an earlier complex that would have contained 16 residential units. The earlier proposal was located one lot from the corner of South 4th Street and Whitworth Avenue South and was located between two existing single-family homes. The City Council approved that earlier proposal reversing a Hearing Examiner decision that had conditioned the proposal on reducing the height of the residential building. The City Council found that the existing Zoning and Comprehensive Plan goals and policies permitted the 16-unit building as proposed.
6. The applicant has since acquired the corner lot so that the proposed complex is no longer sandwiched between two low-rise single-family homes. The expanded property now is a corner lot located on the southwest corner of South 4th Street and Whitworth Avenue South. The subject site is approximately 14,321 square feet. The parcel is approximately 120 feet wide along Whitworth by 120 feet deep.
7. The subject site includes parcels located at 407 and 409 Whitworth Avenue South. The property is located on the west side of Whitworth and on the south side of S 4th Street. An alley runs along the rear or west side of the lot and Shattuck Avenue South is located west of the alley. Whitworth is a deadend street in this location with the railroad tracks located south of the block. The alley also deadends to the south.
8. Saint Anthony's church is located north of S 4th Street. Single-family homes are located east of the site across Whitworth and south of the subject site. West, across the alley, are additional single-family homes and an office.
9. The map element of the Comprehensive Plan designates the area in which the subject site is located as suitable for the development of urban center - downtown uses, but does not mandate such development without consideration of other policies of the Plan.
10. The subject site is currently zoned CD (Center Downtown).
11. The subject site was annexed to the City with the adoption of Ordinance 156 enacted in May 1909.
12. The subject site is level. Two existing single-family homes are located on the subject site. The homes would be removed if the proposal were approved.
13. Access to the property would be along Whitworth on the east and S 4th Street on the north and to the rear of the parcel along the alley on the west side of the parcel. The alley is a partially improved roadway 16 feet wide.
14. The applicant proposes erecting a mixed-use residential condominium and commercial complex on the subject site. The building would contain 33 residential units in a five-story (5-story) building. Commercial space would be located along the north facade facing South 4th Street.

15. The building would be 58 feet 5-1/8 inches tall or about 2 feet shorter than the previous proposal. The CD zone permits buildings 95 feet tall (with provisions for taller buildings).
16. The proposed building's footprint would be approximately 10,639 square feet and would cover 74 percent of the site.
17. The entire structure would contain 48,498 gross square feet over the five stories.
18. The applicant proposes a building that uses a variety of techniques on the facades and rooflines to reduce the apparent bulk of the five-story building. There will be modulations and bays along the facades stepping the building's walls inward and outward. The applicant will be using hipped and gabled roofs on the building (the applicant has abandoned plans to use less attractive shed roofs on the north elevation). The south side of the building will attempt to mirror the lower height of the adjacent single family home (zoned for commercial use). It will do so by stepping the building in from the two-story height line thereby placing the upper stories further to the north creating a wedding cake facade on the south. Wood trellis trim will be located on the walls to provide some architectural detail. Window sizes have also been increased to break up the facade of the south aspect.
19. The construction materials will be concrete masonry units on the lower garage walls and plank and panel boards higher up on the facade. The north facade would be dominated by commercial storefronts at the ground level and upper story treatments similar to the remainder of the building.
20. The density for the building would be 100 dwelling units per acre. The CD zone permits a maximum density of 100 dwelling units per acre (and up to 150 with a Conditional Use Permit).
21. The applicant will be providing parking for 50 vehicles, which is 10 more than mandated by code. A modification has been granted to allow this additional parking.
22. Access to parking will be provided from the alley via two driveways.
23. There would be landscaping along the east (Whitworth) residential facade, the north facade and along the alley. A variety of plant materials including trees, shrubs and groundcovers would be used along these facades.
24. Based on the ERC's transportation fee, approximately 240 trips would occur. These would occur throughout the day with approximately 10 percent in the morning and afternoon peaks. Staff noted that the Transit Center is located north of the proposal and is within walking distance.
25. The subject site is located in the Airport Influence Area (AIA) and below the flight path to and from Renton Municipal Airport. It will not intrude into the airspace but will be affected by flight noise. Therefore, aviation easements would be required for each residential unit.
26. In addition to the Site Plan approval criteria, the subject site is subject to the District 'A' Urban Design Regulations. The design regulations contain both discretionary guidelines and mandatory minimum standards.
27. The property owner to the south noted that their garage access had been accommodated by the prior property owner. The garage opens to the north and has very tight maneuvering but access across a section of the adjacent lot provided reasonable access. The current proposal's design would probably crowd the access or preclude it entirely. There was also concern about the scale and size of the

building and the increase in traffic.

28. Staff evaluated the Design Standards and found that the proposal satisfied those standards and found that the proposal met the Zoning Regulations and the Comprehensive Plan's goals and policies.

**CONCLUSIONS:**

1. The site plan ordinance provides a number of specific criteria for reviewing a site plan. Those criteria are generally represented in part by the following enumeration:
  - a. Conformance with the Comprehensive Plan;
  - b. Conformance with the Building and Zoning Codes;
  - c. Mitigation of impacts on surrounding properties and uses;
  - d. Mitigation of the impacts of the proposal on the subject site itself;
  - e. Conservation of property values;
  - f. Provision for safe and efficient vehicle and pedestrian circulation;
  - g. Provision of adequate light and air;
  - h. Adequacy of public services to accommodate the proposed use;

The proposed use satisfies these and other particulars of the ordinance.

2. The subject proposal, in a way an expansion of a project previously approved by the City Council presents less of an issue than that prior project. This proposal no longer intrudes between two single-family homes. It represents a more orderly transition to the more intense uses represented by the Zoning Codes' CD Zoning and the City's Comprehensive Plan. Clearly, it will still introduce dramatic changes to the neighborhood but the design reduces the bulk of the building along its south aspect potentially reducing the shadow, shading and looming bulk over the neighboring single-family home. The proposal presents the change anticipated by the earlier adoption of more intense zoning that adopted the Comprehensive Plan's goals for downtown densities in areas immediately south of the urban core. In addition, the City Council by granting an appeal allowing a taller building, has clearly found the changes represented by that earlier proposal appropriate for this neighborhood. This new proposal presents a more refined project incorporating both residential and commercial uses that even more closely achieve the goals of urban uses for this area. The facades provide interesting details including hip or gable roofs, modulations reducing the length of straight walls and the use of varying materials to breakup the vertical and horizontal planes of the building. As was noted in the prior report - the project appears to be generally well designed. It steps back as it increases in height, it has included an interesting mixture of facade materials, and it includes modulations and articulated surfaces and has varied rooflines. It has more landscaping elements this time. The building's overall height has also been reduced while covering a larger area. In the main, the project should provide an interesting transition but, again, there is no escaping that the changes to the block will be noticeable and probably profound. The City wants to encourage a change or conversion of this area and this project, now a corner project appears to be the first in what may be a series of changes. As this office previously reported, neighbors will have to accept that change to their rezoned neighborhood is inevitable. While it

could still be considered intrusive, it is less intrusive since it no longer occurs in between two lower-scale single-family homes. The corner parcel allows the transition to start at a natural boundary, South 4th Street.

3. The proposal is compatible with the Comprehensive Plan and the Zoning Code. Both documents call for this area to achieve urban densities and urban scale. This five-story building accomplishes both goals.
4. The use of varying materials in the facade coupled with the vertical and horizontal modulations reduce the apparent bulk and, on the south side of the building, reduce the actual bulk by stair-stepping the walls inward to the north on the upper stories. These features reduce the impacts on the community. The proposal will clearly have some impacts beyond those of the single-family homes it is replacing. There will be more traffic and the increased allotment of parking could exacerbate that. At the same time, increased on-site parking should reduce on-street demands for parking and could reduce traffic since fewer cars will be searching for limited parking.
5. The proposal will be covering approximately 74 percent of the lot but the applicant will be providing landscaping along the two streetscapes as well as along the alley. The terraced stepbacks in the building will allow more air and light to circulate on the site and on adjacent sites.
6. Initially the proposal may have an adverse impact on adjacent property values as single-family homes but the zoning for higher density should offset these impacts.
7. The parking and alley access appears to provide reasonable access. There could be complications with garbage trucks and alley access.
8. The project should have the full complement of City utility services.
9. In conclusion, the project will change the character of this neighborhood but not in ways that were unanticipated by the Zoning Code and Comprehensive Plan changes that preceded it. The project appears well designed and takes advantage of the larger corner by providing better upper-story setback on the south where a single-family home is currently located.
10. This office would hope that the parties could resolve the access issues for the southerly neighbor's garage where access permission had existed previously.

**DECISION:**

The Site Plan is approved subject to the following conditions:

1. The applicant shall comply with the conditions imposed by the ERC.
2. The installation of mirror, warning devices or other safety equipment at both driveways shall be incorporated into the final building design and completed prior to the issuance of the certificate of occupancy. The satisfaction of this requirement is subject to the review and approval of the Planning Division Project Manager at the time of building permit review.
3. A board depicting materials to be used on the facades of the proposed building shall be submitted. The satisfaction of this condition is subject to the review and approval of the Planning Division Project Manager at the time of building permit review.

4. Avigation easements shall be provided by the applicant, subject to the review of the City Attorney, and recorded prior to issuance of occupancy permits.

ORDERED THIS 21<sup>st</sup> day of October 2008.

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FRED J. KAUFMAN  
HEARING EXAMINER

TRANSMITTED THIS 21<sup>st</sup> day of October 2008 to the following:

Mayor Denis Law	Dave Pargas, Fire
Jay Covington, Chief Administrative Officer	Larry Meckling, Building Official
Julia Medzegian, Council Liaison	Planning Commission
Gregg Zimmerman, PBPW Administrator	Transportation Division
Alex Pietsch, Economic Development	Utilities Division
Jennifer Henning, Development Services	Neil Watts, Development Services
Stacy Tucker, Development Services	Janet Conklin, Development Services
Renton Reporter	

Pursuant to Title IV, Chapter 8, Section 100G of the City's Code, **request for reconsideration must be filed in writing on or before 5:00 p.m., November 4, 2008.** Any aggrieved person feeling that the decision of the Examiner is ambiguous or based on erroneous procedure, errors of law or fact, error in judgment, or the discovery of new evidence which could not be reasonably available at the prior hearing may make a written request for a review by the Examiner within fourteen (14) days from the date of the Examiner's decision. This request shall set forth the specific ambiguities or errors discovered by such appellant, and the Examiner may, after review of the record, take further action as he deems proper.

An appeal to the City Council is governed by Title IV, Chapter 8, Section 110, which requires that such appeal be filed with the City Clerk, accompanying a filing fee of \$75.00 and meeting other specified requirements. Copies of this ordinance are available for inspection or purchase in the Finance Department, first floor of City Hall. **An appeal must be filed in writing on or before 5:00 p.m., November 4, 2008.**

**If the Examiner's Recommendation or Decision contains the requirement for Restrictive Covenants, the executed Covenants will be required prior to approval by City Council or final processing of the file. You may contact this office for information on formatting covenants.**

The Appearance of Fairness Doctrine provides that no ex parte (private one-on-one) communications may occur concerning pending land use decisions. This means that parties to a land use decision may not communicate in private with any decision-maker concerning the proposal. Decision-makers in the land use process include both the Hearing Examiner and members of the City Council.

All communications concerning the proposal must be made in public. This public communication permits all interested parties to know the contents of the communication and would allow them to openly rebut the evidence. Any violation of this doctrine would result in the invalidation of the request by the Court.



The Doctrine applies not only to the initial public hearing but to all Requests for Reconsideration as well as Appeals to the City Council.